

### **REMARKS**

Claims 1-17 are presented for examination. Claim 17 has been amended. No new matter is presented. Claims 1-6 and 8-9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,213,255 (Markel) in view of U.S. Patent Publication No. 2001/0029523 (McTernan) in view of U.S. Patent Publication No. 2004/0128343 (Mayer) in view of U.S. Patent Publication No. 2004/0268410 (Barton). The Applicant respectfully submits that claims 1-6 and 8-9 are patentable over the cited art, for the following reasons.

Amended independent claim 1 recites a client system comprising a bandwidth measurement device determining the bandwidth of a network connection over which a content file is downloaded, a download manager retrieving over the network connection and storing in a mass storage device a portion of a first file comprising video content and a second file comprising an interactive element, the size of the portion of the first file responsive to the bandwidth determination made by the bandwidth measurement device, and a presentation manager (i) retrieving the portion of the first file from mass storage, (ii) displaying with a media player application video content represented by the portion of the first file, (iii) retrieving the second file from mass storage, and (iv) displaying with a media player application the interactive element semi-transparently over the video content, wherein the download manager retrieves over the network connection the remainder of the first file in response to the presentation manager displaying the retrieved portion of the first file.

Markel is understood to disclose software programs for previewing combined video and interactive content. A computer in Markel includes an interactive TV (iTV) producer that is used to generate a combined video and interactive content stream. The iTV producer may comprise a software program loaded into the computer that receives a media object, such as video data, as well as an HTML object that comprises interactive TV content stored in a storage device. The iTV producer combines the HTML object and the media object in a desired fashion. (Col. 4, lines 1-13).

McTernan is understood to disclose systems and methods that allow the efficient distribution of rich media to clients by maximizing the use of available bandwidth and

client processing capabilities. A rich media presentation is divided into discrete components, and a producer of the presentation specifies how a presentation is to be assembled and where resources needed for the presentation are to be found. This information is packaged into a data structure and sent to clients. (Abstract).

Mayer is understood to disclose a method and system wherein some segments of at least one program are downloaded from a central location and/or pre-stored in a memory at the premises of the customer. When the customer activates a request, the remaining (complementary) segments of the requested program are streamed over the network from a designated server to the customer's device, where they are combined with the first, pre-stored segments, and rendered by the device to provide the consumer with an immediate, high-quality program experience. (Abstract).

Barton is understood to disclose a video delivery system for on-demand videos at least partially stored proximate to a user location is disclosed. The video delivery system has a number of channels that are normally viewable within the user location and a content receiver coupled to the plurality of channels. A hidden channel of the plurality of channels transports a hidden video stream that cannot be viewed as streamed to the user location. The content receiver includes a storage device and a video rendering circuit. The storage device is coupled to the hidden channel and proximate to the user location. The storage device stores at least a portion of the hidden video stream in a non-volatile manner. The video rendering circuit is coupled to the storage device. The video rendering circuit produces a video signal representative of the portion. (Abstract).

Independent claim 1 recites, in part:

a download manager retrieving over the network connection and storing in the mass storage device a portion of a first file comprising video content and a second file comprising an interactive element. (emphasis added)

The Office Action states that this claim element is disclosed in Markel at col. 4, lines 28-31 and 44-47. Applicant respectfully disagrees. Col. 4, lines 28-31 describe that Markel's computer of Figure 3 generates a combined video and interactive content stream 328. Specifically, Markel's Figure 3 illustrates that a combined video and interactive content stream 328 is produced by an ITV producer 326 inside computer 300. Markel

does not describe or disclose retrieving over a network connection a second file comprising an interactive element, as claimed in independent claim 1.

Further, independent claim 1 recites, in part, “a download manager retrieving over the network connection and storing in the mass storage device a portion of a first file comprising video content.” The Office Action states that Markel discloses this claim element in Figure 3 and col. 4, lines 28-31 and 44-47. Applicant respectfully disagrees. Markel discloses retrieving files from one of its sources 304 (as shown in Figure 3), but Markel retrieves the entire video file from one of its sources 304. Markel does describe portions of files, but that is with respect to using portions once the complete file has been retrieved. For example, col. 1, line 64 - col. 2, line 4 of Markel states that it would be “advantageous to provide a software program that can simulate the functions of various set-top box platforms to allow random access to certain portions of the combined content stream to ensure that the combined content stream provides the desired display of information, while simultaneously allowing the editing of the combined content stream.” Thus, Markel uses portions of files to ensure that a video stream provides the desired display of information. Markel does not describe retrieving a portion of a file and then, when displaying the retrieved portion, downloading the remainder of the file, as recited in independent claim 1.

Independent claim 1 also recites, in part, that the size of the retrieved portion of the first file is responsive to the bandwidth determination made by the bandwidth measurement device. The Office Action states that Markel does not disclose this claim element and refers to Paragraph [0045], lines 6-10 of Mcternan. This paragraph of Mcternan teaches a bandwidth measurement device determining the bandwidth for transmission of a media presentation to a client. Mcternan does not, however, teach or suggest retrieving over a network connection, a portion of a first file comprising video content, the size of the portion responsive to a bandwidth determination of a network connection over which the file is downloaded.

The Office Action then refers to Mayer as curing the deficiencies of Markel and Mcternan. In particular, the Office Action refers to Paragraph [0031], lines 4-6 and Paragraph [0049], lines 14-17 of Mayer as curing the above-noted deficiencies. Applicant respectfully submits that Mayer does not cure the deficiencies noted above.

Mayer discloses splitting a file into portions based on the bandwidths between its media server and its end user. Applicant respectfully submits, however, that one of ordinary skill in the art would not look to Mayer to cure the deficiencies of Markel or Mcternan. In particular, neither Markel nor Mcternan have anything to do with splitting files or downloading portions of a file based on bandwidth. Markel relates to a software program that can simulate the functions of various set-top box platforms to allow random access to certain portions of a content stream to insure that the content stream provides the desired display of information while simultaneously allowing editing of the combined content stream. There is no reason in Markel to retrieve over a network connection a portion of a first file comprising video content because Markel relates to the analysis of a video file. For example, Figure 8 of Markel shows, in step 802, that a video file is generated which contains relevant portions of a video stream to be enhanced. Markel is focused on analyzing a video file to determine portions that are to be enhanced. As a result, there would be no reason to modify Markel with the splitting concept of Mayer. Thus, one of ordinary skill in the art would not look to Mayer when considering the teaching of Markel.

Independent claim 1 also recites, in part, the download manager retrieving over the network connection the remainder of the first file in response to the presentation manager displaying the retrieved portion of the first file. The Office Action states that Markel, Mcternan and Mayer do not disclose this claim element and relies on Barton as curing the deficiencies of Markel, Mcternan, and Mayer. Applicant respectfully submits that Barton does not cure the deficiencies of Markel, Mcternan and Mayer. The Office Action specifically refers to Paragraph [0041], lines 5-6 of Barton. Paragraph [0041], lines 5-6 of Barton disclose that a portion of a program can be pre-stored, and the remainder of the program can be obtained after viewing has begun. Applicant respectfully submits, however, that one of ordinary skill in the art would not combine Markel with Barton because Markel, as stated above, does not relate to retrieving portions of a file.

Therefore, for at least the foregoing reasons, independent claim 1 is allowable over the cited references, either alone or in combination. Further, the claims that depend from independent claim 1 are also allowable for the reasons described above.

Claims 10-11 and 14-17 were rejected under 35 U.S.C. 103(a) as being unpatentable over Markel in view of Barton in view of U.S. Patent No. 6,377,974 (Feigenbaum). In particular, independent claim 10 recites, in part, terminating retrieval of the first content file before the entire content file is retrieved. The Office Action states that Markel and Barton do not disclose this claim element and relies on Feigenbaum to cure the deficiencies of Markel and Barton. Feigenbaum, however, does not cure the deficiencies noted above. The Office Action refers to steps 130, 140, 150 and 160 in Figure 2 of Feigenbaum as disclosing the terminating step recited in independent claim 10. Applicant respectfully submits that Feigenbaum does not teach or suggest the terminating step recited in independent claim 10. Feigenbaum discloses downloading a remaining portion of a file if a previous download terminated prematurely. Thus, Feigenbaum doesn't have a terminating step but instead adjusts to when a download file has been terminated prematurely. Claim 10 recites the active step of terminating the retrieval of a content file before the entire content file is retrieved so that a portion of the content file can be stored and displayed and further so that the remainder of the content file can be downloaded in response to displaying the previously downloaded portion. Feigenbaum discloses performing steps in response to a premature termination of a download and does not perform an active step of terminating retrieval of a file. As a result, independent claim 10, and the claims that depend from independent claim 10, are allowable over the cited art, either alone or in combination. Further, for the reasons described above, independent claim 17 is also allowable over the cited art, either alone or in combination.

Dependent claim 7 was rejected under 35 U.S.C. 103(a) as being unpatentable over Markel in view of McTernan in view of Mayer in view of Barton in view of U.S. Patent Publication 2004/0117839 (Watson).

Watson discloses that media content, based on a predetermined set of constraints, from a content provider is delivered to a local cache of a user device before viewing the media. A client asset manager process resides in the user device, an asset list at the content provider site, and the media assets are located at a remote site. Applicant respectfully submits that Watson does not, however, cure the deficiencies noted above with respect to independent claim 1. As a result, independent claim 1, and claim 7 which

depends from independent claim 1, are allowable over Watson, alone or in combination with the other art of record.

Dependent claim 12 was rejected under 35 U.S.C. 103(a) as being unpatentable over Markel in view of Barton in view of Feigenbaum in view of U.S. Patent Publication 2003/0163702 (Vigue). Vigue discloses a system and method for secure and verified sharing of resources in a peer-to-peer network environment to facilitate efficient use of bandwidth. The method for securely sharing resources over a peer-to-peer network generally comprises broadcasting a request by a requesting peer for a resource over the peer-to-peer network where the resource is identified with a resource version identifier, receiving a response from a responding peer on the peer-to-peer network indicating that the responding peer has the requested resource, retrieving the requested resource from the responding peer, and verifying the retrieved resource by ensuring the retrieved resource contains the version identifier embedded therein. Applicant respectfully submits that Vigue does not, however, cure the deficiencies noted above with respect to independent claim 10. As a result, independent claim 10, and claim 12 which depends from independent claim 10, are allowable over Vigue, alone or in combination with the other art of record.

Dependent claim 13 was rejected under 35 U.S.C. 103(a) as being unpatentable over Markel in view of Barton in view of Feigenbaum in view of Mcernan. Applicant respectfully submits that none of these cited references disclose the claim elements of independent claim 10, as described above. As a result, independent claim 10, and claim 13 which depends from independent claim 10, are allowable over the cited art, alone or in combination.

Accordingly, it is submitted that none of the above-cited references, considered either alone or in combination, render obvious the invention defined in independent claims 1, 10, and 17. Any claim dependent from these independent claims are patentable over the cited references for the same reasons.

Having responded to all objections and rejections set forth in the outstanding Office Action, it is submitted that the currently pending claims are in condition for allowance and Notice to that effect is respectfully solicited. Additional characteristics or arguments may exist that distinguish the claims over the prior art cited by the Examiner,

and Applicant respectfully preserves their right to present these in the future, should they be necessary. In the event that the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, he is respectfully requested to contact Applicant's undersigned representative.

The Applicant's attorney may be reached by telephone at 212-801-9220. All correspondence should continue to be directed to the address given below, which is the address associated with Customer Number 76058.

The Commissioner is hereby authorized to charge any required fee in connection with the submission of this paper, any additional fees which may be required, now or in the future, or credit any overpayment to Account No. 50-1561. Please ensure that the Attorney Docket Number is referenced when charging any payments or credits for this case.

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Respectfully submitted,

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